

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIA SERVICE EMPLOYEES HEALTH & WELFARE TRUST FUND, et al.,

Plaintiffs,

V.

A & B MAINTENANCE, INC.,

Defendant.

NO. C07-4945 TEH

**ORDER GRANTING
PLAINTIFFS' MOTION FOR
PARTIAL JUDGMENT BY
DEFAULT**

Defendant A & B Maintenance, Inc. has failed to appear in this action, and the Clerk entered default on October 26, 2007. Plaintiffs filed a motion for partial judgment by default on November 30, 2007, and noticed the motion for hearing on January 7, 2008. Under the Civil Local Rules, any opposition to the motion was due on December 17, 2007. *See* Civ. L.R. 7-3(a) (stating that any opposition to a motion must be filed “not less than 21 days before the hearing date”). Not surprisingly, Defendant failed to file an opposition. Upon the Court’s review of Plaintiffs’ moving papers, as well as Defendant’s complete failure to appear in this action, the Court finds good cause to GRANT Plaintiffs’ motion for partial judgment by default. Accordingly, IT IS HEREBY ORDERED that:

1. The case management conference and motion hearing scheduled for January 7, 2008, are VACATED.

23 2. Within thirty calendar days of the date of this order, Defendant A & B
24 Maintenance, Inc. shall permit entry upon its premises to an independent auditor selected by
25 Plaintiff California Service Employees Health & Welfare Trust Fund (“Trust”). Defendant
26 shall also provide access to its business records, including all records identified in the Trust
27 Agreement of the Trust, to allow the auditor to evaluate the accuracy of Defendant’s benefit
28 contributions to the Trust.

1 3. Within sixty calendar days of the date of this order, Plaintiffs shall file a motion for
2 final entry of default judgment in accord with the audit conducted pursuant to the above.

3 4. Defendant A & B Maintenance, Inc. is enjoined from further breaches of its
4 obligation to contribute to the Trust under the Employment Retirement Income Security Act,
5 the Trust Agreement, and any applicable collective bargaining agreements. Defendant
6 A & B Maintenance, Inc. shall also immediately resume submission of reports of hours
7 worked by its covered employees and payment of contributions due.

8 5. Defendant A & B Maintenance, Inc. is enjoined from transferring any of its assets
9 to its owners, officers, and/or directors, other than ordinary salary payments, during the
10 pendency of this action.

11 6. This Court shall retain jurisdiction of this matter pending its resolution.

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13 **IT IS SO ORDERED.**

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15 Dated: 12/21/07


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17 THELTON E. HENDERSON, JUDGE
18 UNITED STATES DISTRICT COURT